

PRISON GRIEVANCES

WHEN TO WRITE, HOW TO WRITE

BY

TERRI LECLERCQ

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DISCLAIMER: *Prison Grievances: When to Write, How to Write*, was written by an English professor. The law prohibits English professors from providing legal advice to prisoners. The graphic-novel format emphasizes that **the content is *not* legal advice or representation**. You should not rely on the material within as legal authority. It is not. (*Tex. Gov't Code Section 81.101(c)*). Because the law changes frequently, and differs from state to state, I cannot guarantee that all information is current or applies to your specific prison's conditions. This book generally reflects Texas prisons. Follow your own prison system's grievance process as closely as you can. If that system cannot help your legitimate complaint then, and only then, reach out to a court—with the help of an attorney if at all possible.

LANGUAGE AND LABELS FOR FOLLOWING THE PRISON LITIGATION REFORM ACT: All inmates must follow the steps their particular system requires. In federal prisons, those filings have titles of BP 9, BP 10, etc. You may have already learned that each jail system has its own labels for the required grievance steps. Use them. In this graphic novel, you will see them labeled as Step 1 and Step 2, etc. Understand that you will use whatever label and language your particular jail or prison requires. **Ask. Research. Follow the rules.**

PRAISE FOR TERRI LECLERCQ'S

PRISON GRIEVANCES HOW TO WRITE,
WHEN TO WRITE

"...A ONE-OF-A-KIND TOOL FOR PRISONERS AND THEIR LOVED ONES. **PRISON GRIEVANCES** IS A MUST HAVE FOR THOSE WHO SEEK JUSTICE AND FAIR TREATMENT BEHIND PRISON WALLS."

Ana Yáñez-Correa, Ph.D.

Texas Criminal Justice Coalition, Executive Director

"THIS BOOK SEES INMATES AS HUMANS AND HELPS THEM WORK TOWARD THEIR CIVIL RIGHTS DESPITE INCARCERATION."

Ramsey Clark, United States Attorney General, 1967-1969,
United Nations Human Rights Prize, 2008

"AN IMPORTANT AND EMPOWERING TOOL..."

Maine Prisoner Advocacy Coalition
(M-PAC)

"BRILLIANT! SO IMPORTANT!"

The John Howard Society,
International Penal Reform

"GROUNDBREAKING!... WHY HASN'T SOMEONE DONE THIS BEFORE?"

Wade Henderson,
CEO & President,
The Leadership Conference on Civil and Human Rights
and the Leadership Conference Education Fund

"THE MAIN CHARACTER IS DEALING WITH LEGITIMATE ISSUES THAT WE ALL
RECOGNIZE... [IT'S] NOT A 'FEEL GOOD' BOOK..."

Gary, State Inmate
(review from Prison Newsletter)

"IT WOULD BE AN INJUSTICE IF PRISON OFFICIALS DO NOT FIND A WAY TO MAKE
THIS BOOK AVAILABLE TO INMATES."

Ken Herman,
Austin Statesman (June 13, 2013)

"...VITAL TO PROTECTING PRISONERS' CIVIL RIGHTS."

Scott Medlock
Texas Civil Rights Project

"GREAT CREATIVE WORK IN THE PURSUIT OF JUSTICE... GROUNDBREAKING!"

Professor John C. Brittain,
UDC Law School, Former President of the National Lawyers Guild;
Advisory board of the ACLU Prison Project

PRISON GRIEVANCES: WHEN TO WRITE, HOW TO WRITE

WRITTEN BY

TERRI LECLERCQ

ART / GRAYTONES

**PATRICK
HUBIK**

ART: Pages 1, 8, 11, 18, 33, 44

GRAYS: Pages 1-33

*Additional Digital Art Wizardry
Seen Throughout Book*

**SHAWN VAN
BRIESEN**

ART: Pages 2-10, 12-32

GRAYS: Pages 2-5

LETTERS
BOOK PRODUCTION

GREG SORKIN

ADDITIONAL LAYOUT ASSISTANCE BY TIM DOYLE (www.nakatomiiinc.com)

**IF ANYTHING IS INCORRECT, IT'S NOT
THESE FOLKS' FAULT, BUT THANKS TO:**

Scott Medlock, attorney, Texas Civil Rights Project; **Bill Habern** and **Michelle Belanger**, Habern, O'Neil & Pawgan; **Professor Joycelyn Pollock**, School of Criminal Justice, Texas State University; **Dr. Bobbi Turner-Parker** and **Sandy Murphy**, Offender Grievance Office, Texas Department of Criminal Justice; **Kim Vernon**, State Counsel of Offenders, Texas Department of Criminal Justice; **Judge Cathy Cochran** and research attorney **Amy Wilson**, Texas Court of Criminal Appeals; **Dean Shelley Broderick**, School of Law, University of District of Columbia. Special thanks to **Stephen Goldman** (and his book, *Everyman* and comic, *Styx Taxi*) for showing me the ropes in the early days.

ABOUT THE CREATIVE TEAM:

DR. TERRI LECLERCQ has published *Expert Legal Writing*, *Guide to Legal Writing Style*, and more than a hundred articles on rhetoric. She and husband Julius Getman live in Austin, where they both teach at the School of Law, University of Texas. *More about Terri and her work at prisongrievances.com.*

PATRICK HUBIK declined a bio. You know what that means. (He's Batman!). *His websites are patrickhubik.blogspot.com; birdmachinebird.carbonmade.com; and hubik000.deviantart.com.*

SHAWN VAN BRIESEN is an artist and comic creator from Minnesota. He's done books for Zenescope, Moonstone, as well as promotional art and storyboards. *Find his work at empusa.com and shawnvanbriesen.deviantart.com.*

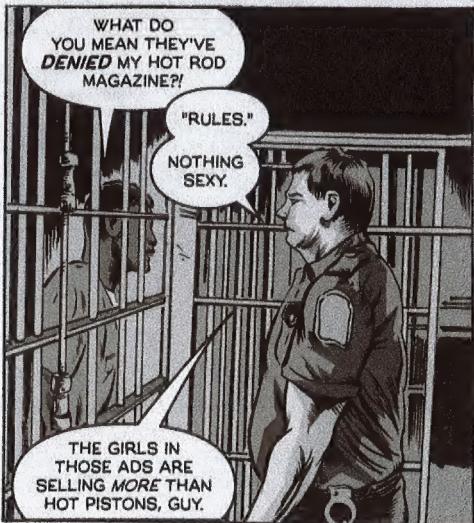
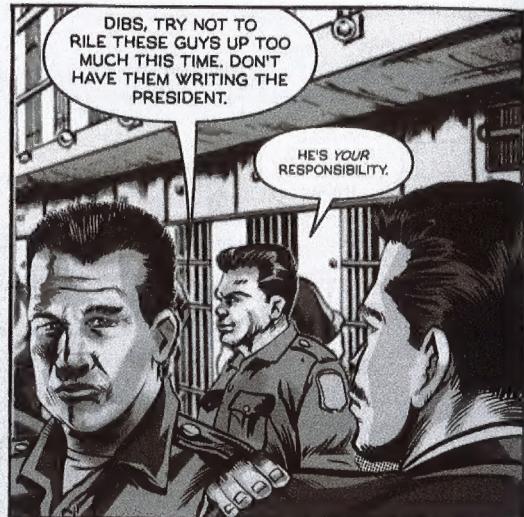
GREG SORKIN is a writer, comics creator, and letterer from Chicago with a degree in Television Writing and Producing from Columbia College Chicago. *His writing, lettering and design work can be found at gregsorkin.com and/or monkeysplustypewriters.com.*



A YEAR EARLIER







GOOD MORNING,
EVERYBODY. I'M MR.
DIBS, AND I'M A VOLUN-
TEER LAWYER.

FOR SPECIFIC
HELP WITH YOUR
SPECIFIC CASE, YOU'LL
NEED ANOTHER
LAWYER.

MRI. DIBS

GRIEVANCES

I'M
YOUR
OVERVIEW
GUY.

I'M HERE TO
TALK TO YOU
ABOUT YOUR
IN-HOUSE
RIGHTS.

EXACTLY.
YOU CHECKED
MOST OF THEM
AT THE DOOR.

SO LET'S
START WITH
MY NAME:
DIBS.

AS YOU
SEE, IT STANDS
FOR "DON'T BE
STUPID."

WHAT THAT MEANS
IS, SPEAK UP, COMPLAIN
ONLY WHEN YOU HAVE
SOMETHING **REAL** TO
COMPLAIN ABOUT...

NOT
YET, UM...
AWAD?
YEAH.
NOT
YET.

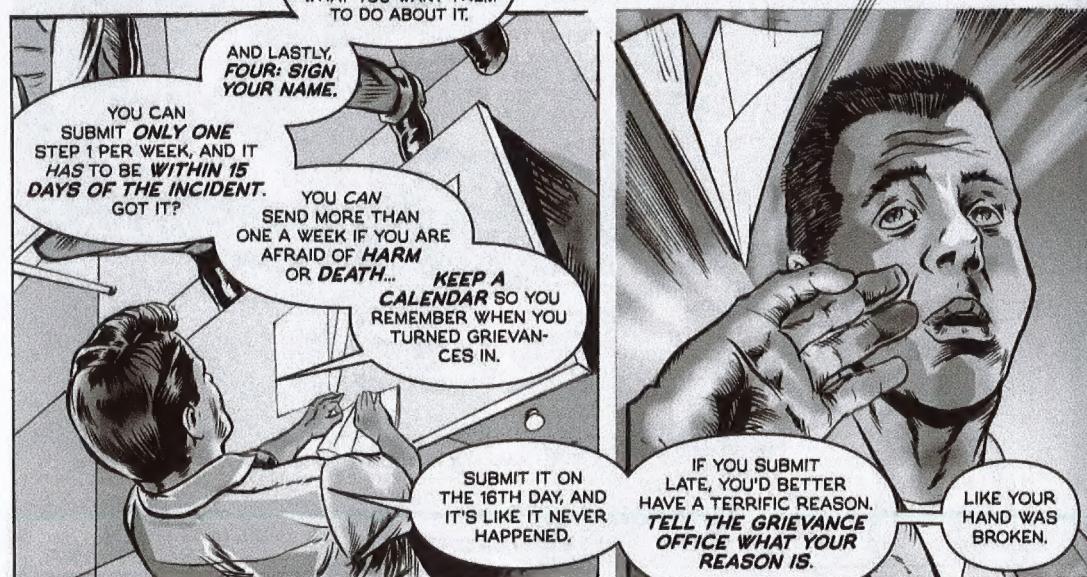
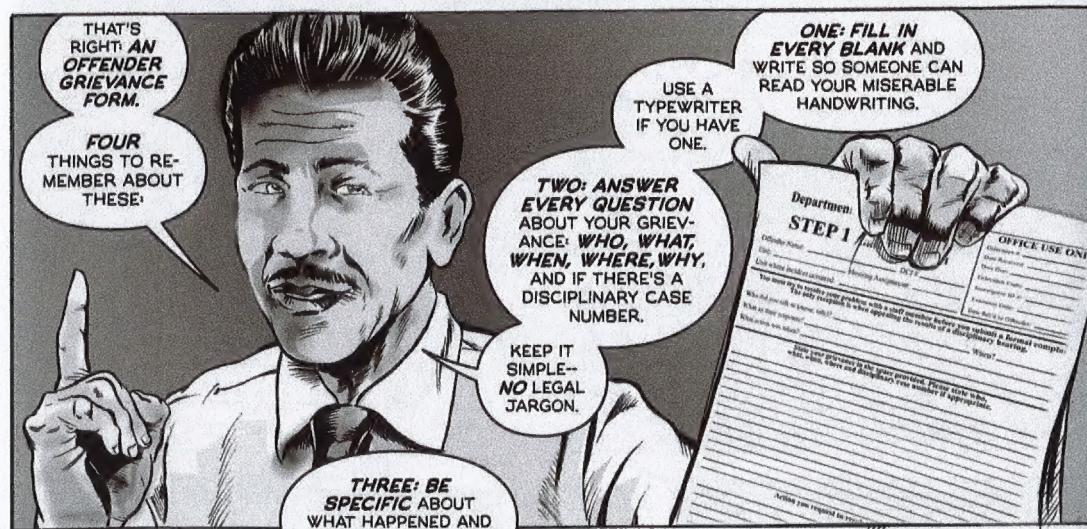
SO YOUR
JOB IS TO TAKE
CARE OF YOURSELF
WHILE YOU'RE
INSIDE.

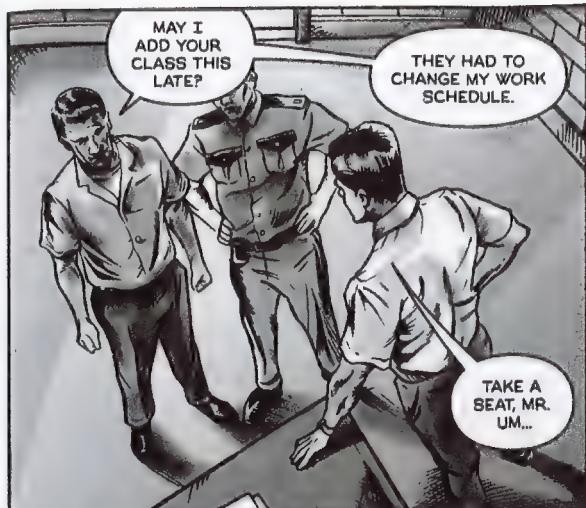
IF SOMETHING
IS REALLY WRONG HERE
AND YOU WANT TO GET YOUR
COMPLAINTS HEARD, YOU
HAVE TO FOLLOW
THE **RULES...**

EXCEPTION: YOU CAN WRITE
DIRECTLY TO A COURT IF YOU
HAVE A PHYSICAL THREAT/LIFE
EMERGENCY.

THAT MEANS
YOU HAVE TO **KNOW**
AND FOLLOW THE STEPS
IN THE GRIEVANCE
SYSTEM.

IMPORTANT: FOR SPECIFIC HELP,
SEE A SPECIFIC LAWYER.





THE UNIT GRIEVANCE INSPECTOR HAS **40 DAYS** TO SEND YOU A RESPONSE TO YOUR STEP 1.

OR THEY CAN FILE AND GET AN EXTENSION.

IF YOU DON'T GET A RESPONSE IN 40 DAYS AND THEY DON'T SEND YOU AN EXTENSION? WRITE TO THE GRIEVANCE OFFICER. THEN FILE A **STEP 2...**

IF THEY TURN DOWN THE STEP 1, YOU CAN APPEAL WITH A **STEP 2.**

I'VE BEEN HERE **SIX YEARS!**

THEY DON'T LISTEN AROUND HERE ANYWAY. I TAKE CARE OF IT MY WAY. I DON'T NEED NO BABY-STEP FORMS.

IN STEP 2, EXPLAIN **WHY** THEY MADE A MISTAKE IN THEIR DECISION.

ADD ANY FORGOTTEN DETAIL IF YOU PLAN TO FILE IN COURT LATER.

"LUCKY YOU, LUIS. BUT **WE** HAVE TO FOLLOW THE **RULES.**

"THINK OF THIS AS THE BIGGEST POKER GAME YOU'VE EVER BEEN IN. THE **HOUSE** HAS THE TABLE AND OWNS THE DECK.

"IT'S POSSIBLE FOR YOU TO WIN- IF YOU KNOW THE ODDS AND THE RULES.

"THE BOSSSES- AND MAYBE LATER, THE COURT- WILL LOOK FIRST TO SEE IF YOU FOLLOWED THE RULES.

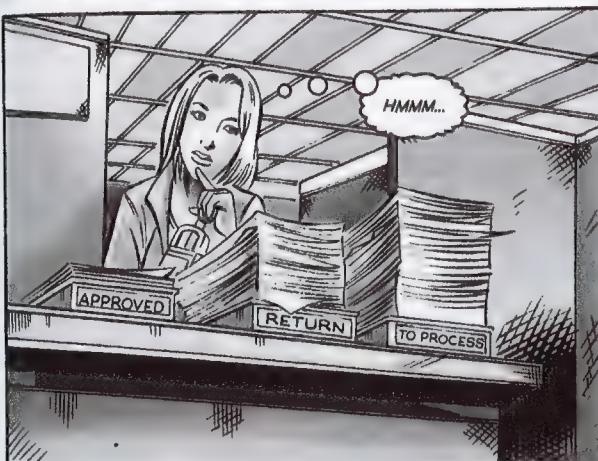
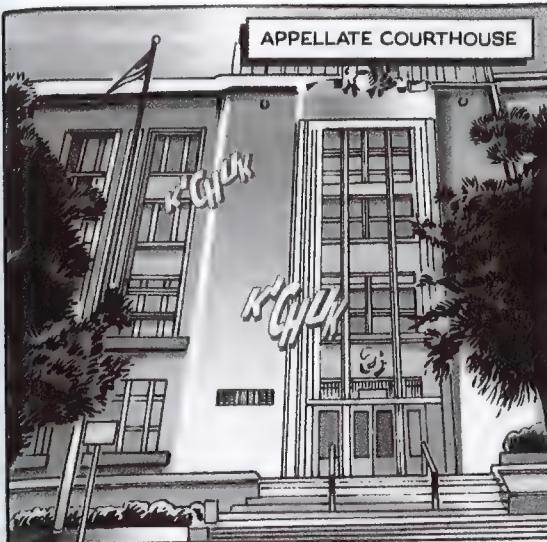
"IF YOU DID, THEN THEY LOOK AT THE PROBLEM."

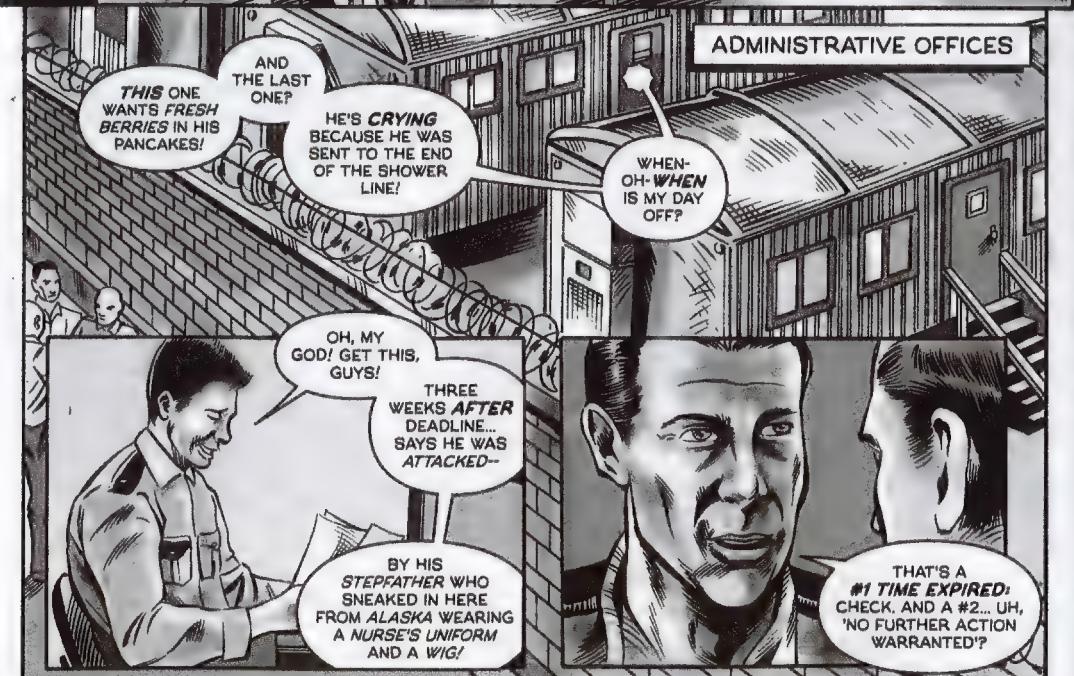
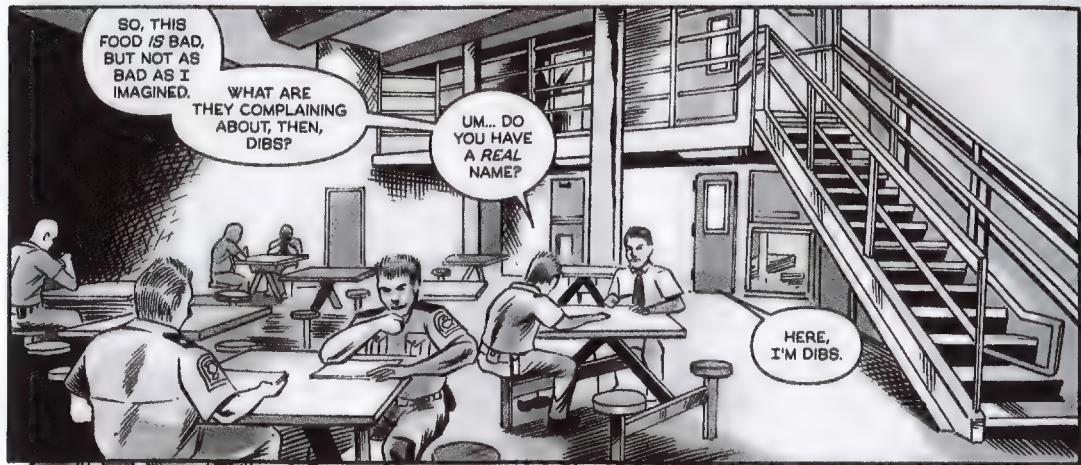
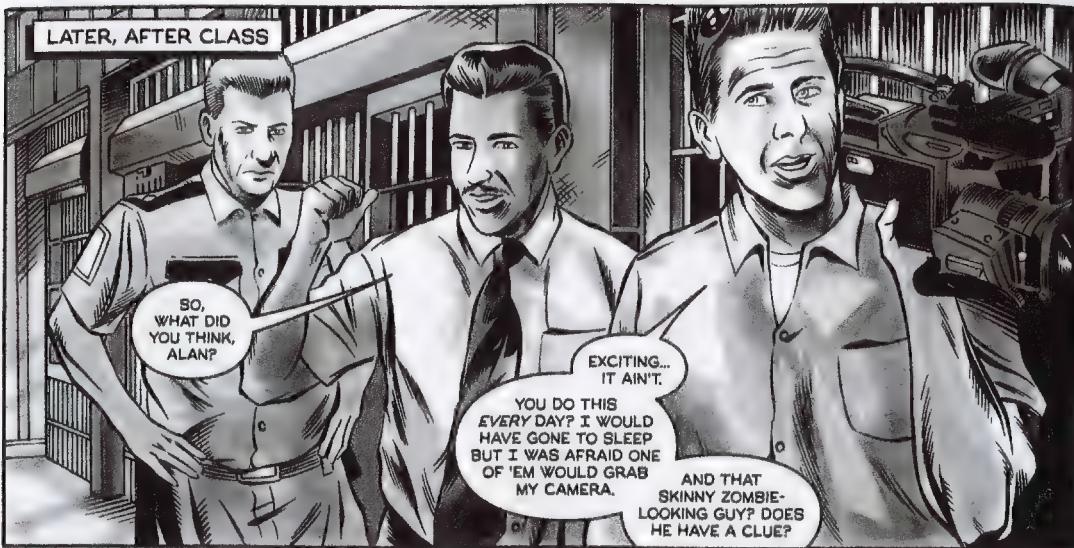
BREAKING OR IGNORING THE RULES IS WHAT GOT ALL OF US IN HERE.

LEARNING AND FOLLOWING RULES IS HOW WE CAN STAND UP FOR OUR RIGHTS INSIDE HERE.

TRY TO IMAGINE IF YOU WERE THE BOSS. THEN READ YOUR GRIEVANCE.

WHAT WOULD CONVINCE **YOU?**





THE NEXT DAY

SO, WHAT
RIGHTS **DO**
YOU HAVE
LEFT?

DON'T
LAUGH; YOU
STILL HAVE
SOME.

THEY ALL
STEM FROM
THE U.S. CON-
STITUTION.

*The Constitution
of The
United States of America*

THE **FIRST
AMENDMENT**
PROTECTS YOUR RIGHTS
TO SPEAK AND TO
PRACTICE YOUR RELIGION
WITH **REASONABLE
RESTRICTIONS**.

THE **8TH
AMENDMENT**
MAKES CRUEL OR
UNUSUAL PUNISHMENT
AGAINST THE LAW.

AND THE **14TH
AMENDMENT**
PROTECTS YOUR
RIGHT TO DUE
PROCESS.

THAT'S YOUR
RIGHT TO BE HEARD
BY THE AUTHORITIES
OR THE COURT.

HEH.

SO, IF I'M
BEIN' **BEATEN UP**
BY THE GUARDS-- WHILE
PRAYING TO **SATAN**--
AND GO TO FILIN' A
LAWSUIT...

...YOU THINK
SOME JUDGE'LL
SAY THAT **GREAT**
8TH AMENDMENT
MEANS I GET TO
GO FREE?

WHAT'S
YOUR NAME?

CLEM.

HI,
"CLEM."

DO ME
A FAVOR:
SHUT UP.

I'M TRYING
TO **HELP** YOU,
SO **DON'T**
WASTE **MY**
TIME.

THEIRS,
EITHER.



FIRST OFF,
IF YOU CAN, YOU
SHOULD TALK OVER ANY
PROBLEMS WITH THE
PRISON STAFF.

IF YOU DON'T
TALK TO OFFICIALS
FIRST, YOUR
COMPLAINT'LL BE
KICKED BACK.

TAKE NOTES SO
YOU'LL REMEMBER NAMES,
DATES, ETC. THEN IF THE
SYSTEM DOESN'T CORRECT
YOUR PROBLEM, YOU'LL HAVE
YOUR FACTS STRAIGHT FOR
A LAWYER.

LIKE, IF YOU'RE
SICK, YOU HAVE TO
PROVE TO OUTSIDE
AUTHORITIES THAT
YOU FILLED OUT A **SICK
FORM** AND ASKED
FOR TREATMENT.

KEEP A
RECORD.

OR IF YOU
WERE ASSAULTED,
YOU SHOULD **REPORT**
IT TO YOUR **C.O.**
OR BOSS.

IF YOUR
LIFE'S IN **DAN-
GER**, REPORT IT
IMMEDIATELY.

AND, IF AN OFFICIAL
ACTUALLY KNEW IT AND
WAS SUPPOSED TO HELP,
BUT DIDN'T- YOU MAY HAVE
A CASE. **YOU HAVE TO** BE
ABLE TO **IDENTIFY** WHO
IT WAS, AND **WHEN**, AND
WHAT SHOULD HAVE
HAPPENED.

USE ANYTHING-
ANY REQUEST TO
AN OFFICIAL- ANY-
THING.

COMPLAINTS



YOU HAVE A **RIGHT** TO
ADeQuATE MEDICAL,
DENTAL, AND MENTAL
HEALTH CARE.

"ADEQUATE" MEANS
MEDICAL CARE, WITH
DECISIONS FROM MEDICAL
PROfESSfIONALS, FOR
A REALLY SERIOUS
PROBLEM.

IF YOU GET
REALLY SICK, IF YOU
HAVE TERRIBLE PAIN
IN YOUR TEETH, IF YOU'RE
FEELING DEPRESSED OR
SUICIDAL, YOU HAVE
THE **RIGHT** TO
BE TREATED.

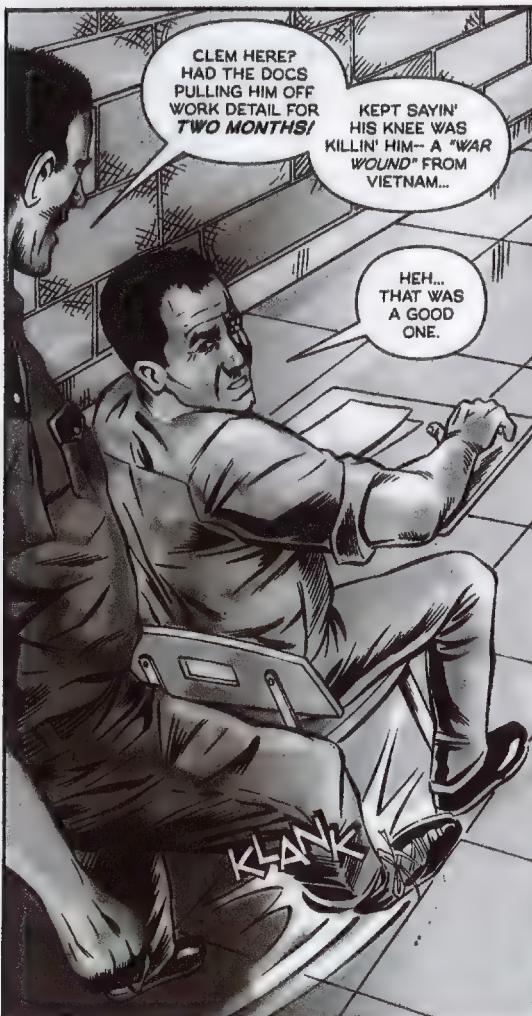
MEDICAL
CARE

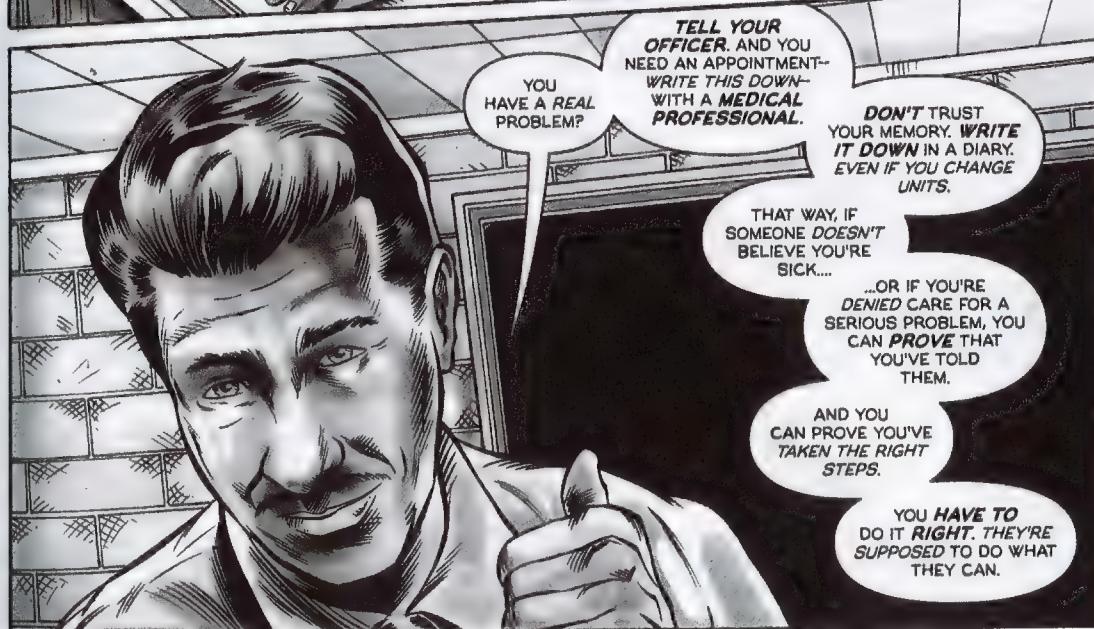
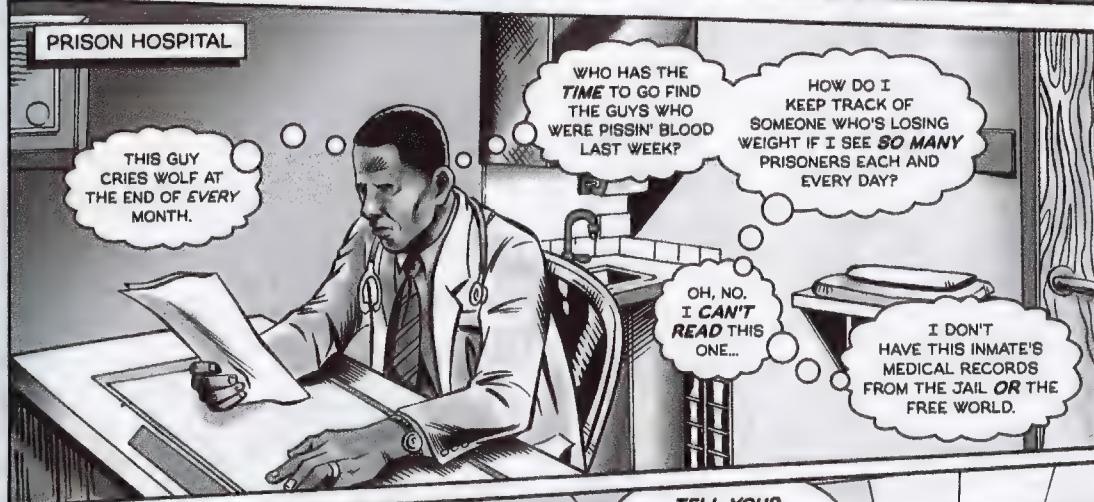
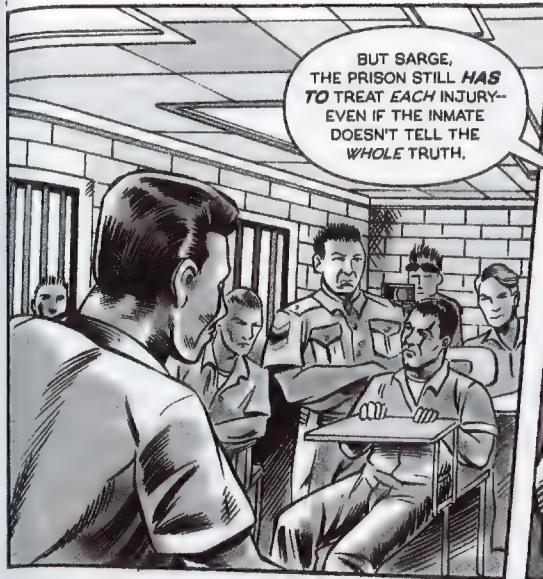


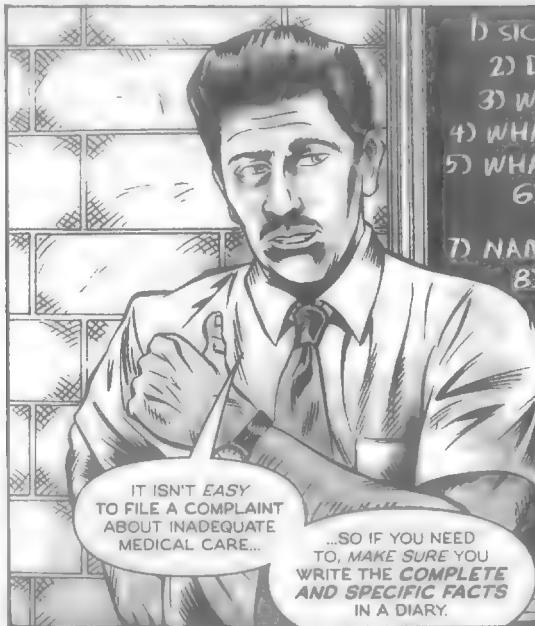
MEDICAL
CARE IS FOR
SERIOUS CONDITIONS,
LIKE EXTREME PAIN,
EXTREME DISCOMFORT OR
THREATS TO YOUR HEALTH.

"SERIOUS"
DOESN'T MEAN
INVENTING LIKE
CLEM JUST DID.

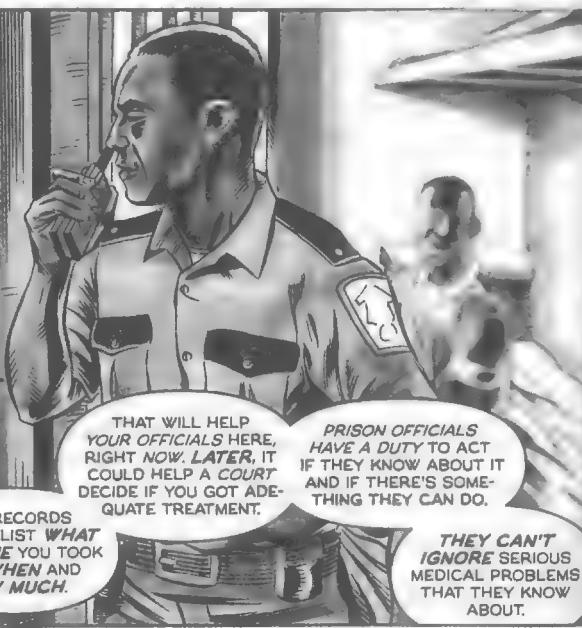
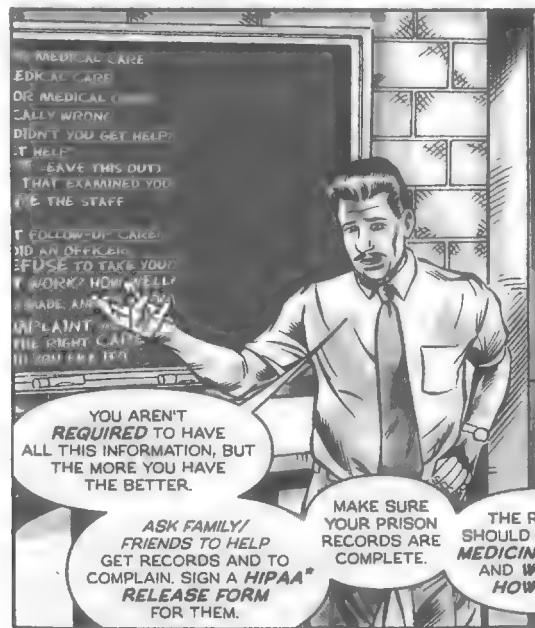








1) SICK CALLS: REQUESTS FOR MEDICAL CARE
2) DATES YOU ASKED FOR MEDICAL CARE
3) WHO YOU WROTE, ASKING FOR MEDICAL CARE
4) WHAT YOU SAID WAS SPECIFICALLY WRONG
5) WHAT HAPPENED? - WHY DIDN'T YOU GET HELP
6) DATES WHEN YOU DID GET HELP
(DON'T LEAVE THIS OUT)
7) NAME(S) OF MEDICAL STAFF THAT EXAMINED YOU
8) WHAT FOLLOW-UP CARE THE STAFF ORDERED FOR YOU
9) DID YOU RECEIVE THAT FOLLOW-UP CARE? IF NOT, WHY NOT? DID AN OFFICER REFUSE TO TAKE YOU
10) DID THE TREATMENT WORK? HOW WELL?
11) ANY COMPLAINTS YOU MADE, AND TO WHOM
12) AN INCIDENT COMPLAINT YOU MADE ABOUT NOT GETTING THE RIGHT CARE WHEN YOU WERE TOLD



LEAVE ANYTHING
ELSE. JUST TAKE YOUR
NOTES... IF YOU BOthered
TO TAKE ANY.

DIBS!

DON'T
LEAVE WITHOUT
ME, MAN!



WHAT IF,
LIKE...

S-SIR--?

OH,
SH-SHIT,
NEVER
MIND...

HAH!
WHATTA
PRAG!



ER, DIBS,
DO YOU EVER GET
TIRED OF ALL...
THIS?

WE'RE OFF
CAMERA.

HOW DO YOU
REALLY FEEL WHEN
YOU LEAVE HERE
EVERY DAY?

TIRED.
SAD.

EXASPERATED.

HAPPY YOU'N I
CAN LEAVE AND GO
SEE COLORS AND BE
AROUND PEOPLE
WHO LOVE US.

THINK ANY ONE
OF THESE YO-YO'S
WILL EVER TURN IN
A GRIEVANCE THAT
WORKS?

DEPENDS
ON WHAT
YOU MEAN BY
'WORKS.'

SOMETIMES
THE PRISON AUTHORITIES
DENY THE GRIEVANCE BUT
FIX THE PROBLEM.

THAT COUNTS
AS SUCCESS
AROUND HERE,
AND I'LL TAKE IT.





I'LL EDIT ANYTHING OUT THAT MAKES YOU LOOK STUPID. JUST GO ALONG WITH US, OK?

LET'S SAY SOME BOZO WALKS IN HERE, PRETENDING IT'S NOT ABOUT HIM BUT WANTS TO KNOW WHAT HIS "BUDDY" CAN DO ABOUT RAPE.

"HE" DOESN'T WANT ANYONE ELSE TO KNOW AND ASKS HIS CLOSEST LIBRARIAN. THAT'S YOU.

POSTERS HUNG UP ALL OVER TELL THEM ABOUT THE PRISON RAPE ELIMINATION ACT AND THE SAFE PRISONS PROGRAM.

DAY THREE

PRISON LAW LIBRARY

WELL, LET'S JUST PRETEND, BETWEEN YOU, ME AND THE CAMERA HERE, THAT MY AUDIENCE CAN'T READ THESE WALL POSTERS.

TALK.

YOUR SUPPOSED 'BOZO' IS ALREADY LATE ON ALL THIS.

BUT OK... ONE: REPORT THE ATTACK IMMEDIATELY TO THE CLOSEST STAFF.

TWO: IF THEY DON'T DO ANYTHING, REPORT IT TO O.I.G. ASAP.

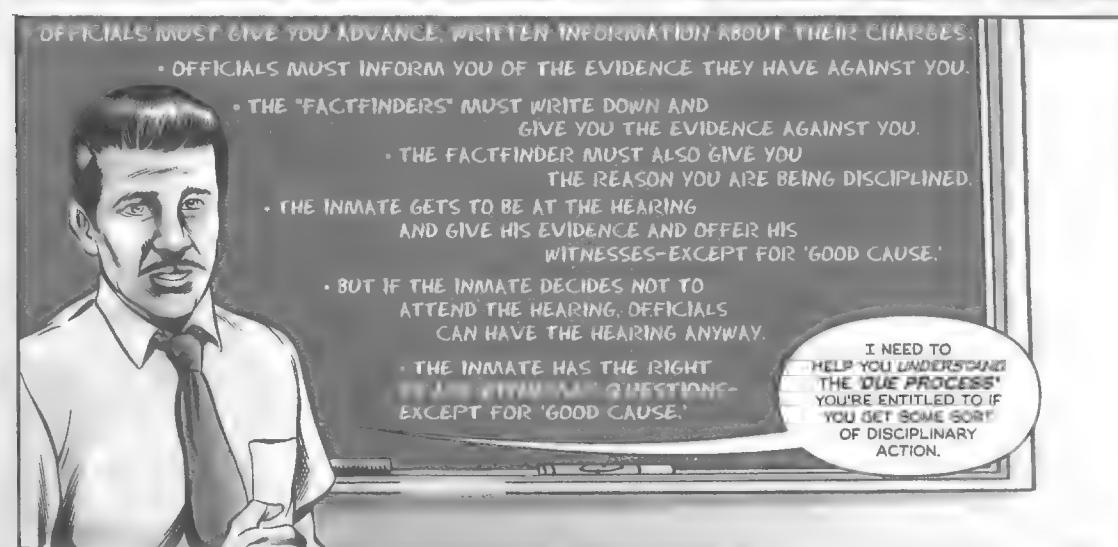
THREE: INSIST ON IMMEDIATE MEDICAL HELP AND AN EXAM.

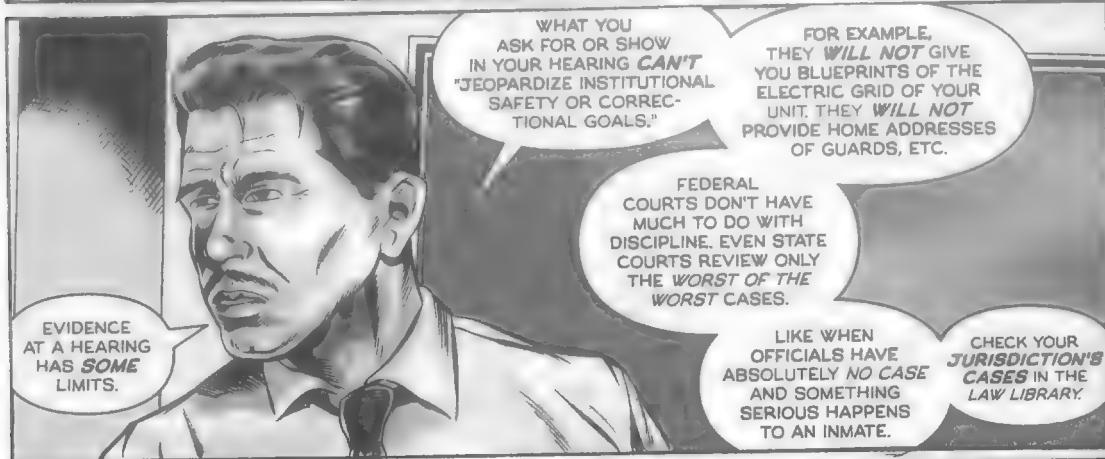
YOU HAVE A RIGHT TO A RAPE EXAM IF YOU REPORT IT SOON ENOUGH **WITHIN 96 HOURS**

FOUR: IF YOU SHOWER OR BRUSH YOUR TEETH OR TAKE A SHIT OR CHANGE CLOTHES, YOU CAN MESS UP EVIDENCE.









THAT AFTERNOON

NOW WE COME TO THE TOUGHEST SUBJECT: PROTECTION ISSUES AND USE OF FORCE.

A USE OF FORCE IS NOT- REPEAT NOT- AGAINST PRISON POLICY OR UNCONSTITUTIONAL.

OFFICIALS ARE ALLOWED TO USE FORCE TO "MAINTAIN OR RESTORE DISCIPLINE."

FOR AN EXCESSIVE FORCE CLAIM, YOU NEED TO PROVE THE OFFICERS ACTED "MALICIOUSLY" AND NOT TO "RESTORE OR PRESERVE ORDER."

AND THEY CAN'T HAVE RESPONDED "REASONABLY."

FOR CONDITIONS, YOU HAVE TO PROVE OFFICIALS WERE "DELIBERATELY INDIFFERENT" TO THE CONDITION.

TO HAVE A VALID CLAIM, ONE: THE PRISON OFFICIALS HAVE TO HAVE KNOWN ABOUT THE EXCESSIVE FORCE, OR THE DANGEROUS PRISON CONDITION.

TWO: OFFICIALS ARE REQUIRED ONLY TO HAVE RESPONDED "REASONABLY."

THREE: OFFICIALS HAD TO BE "DELIBERATELY INDIFFERENT" OR HAD "RECKLESS DISREGARD" FOR INMATE SAFETY.

I KNOW. IT'S A BUNCH OF LEGAL HOOPS. BUT THAT'S THE LAW. LET'S WORK WITH IT.

YOU HAVE THE RIGHT TO COMPLAIN ABOUT TWO TYPES OF ASSAULT: IF YOU, AS AN INDIVIDUAL, ARE ASSAULTED.

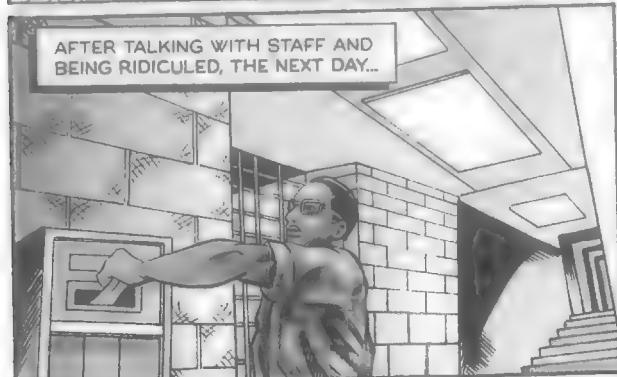
OR IF INMATES IN GENERAL ARE BEING INJURED- DUE TO A PRISON CONDITION THAT OFFICIALS KNOW ABOUT.

EVERYTHING DEPENDS ON SPECIFIC FACTS: WHO, WHAT, WHERE, WHEN, YOU HAVE TO BE SPECIFIC ENOUGH THAT OFFICIALS CAN FIX THE PROBLEM.

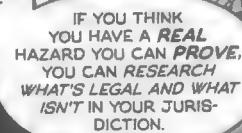
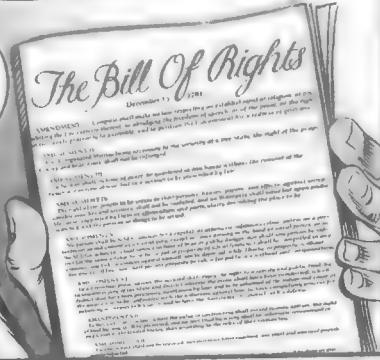
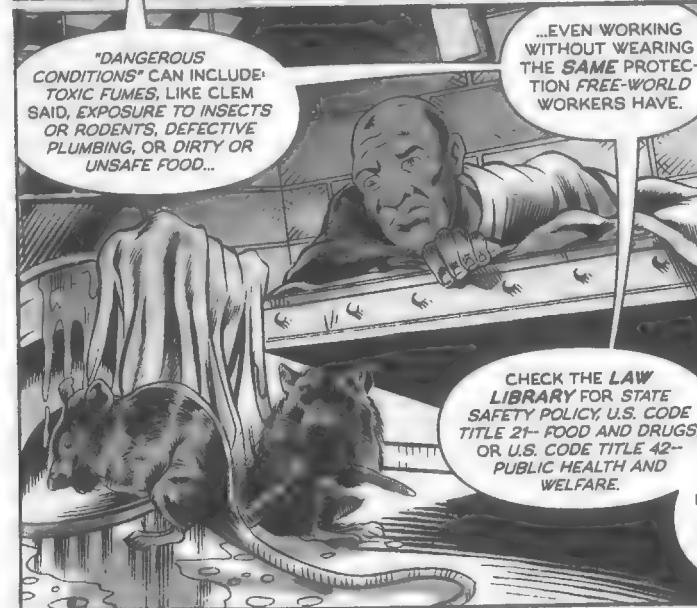
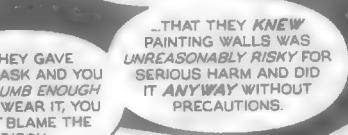
BUT HEAR ME NOW: IF YOU HAVE A LIFE EMERGENCY, GO STRAIGHT TO ANY STAFF.

SOMEONE WILL GET YOU TO A SAFE PLACE AND INVESTIGATE.

IF YOU HAVE THE FACTS, HE'LL GET IN TOUCH WITH THE OFFICE OF THE INSPECTOR GENERAL RIGHT THEN.













THE NEXT DAY

AND, YEAH,
WHEN I COME IN,
IT'S A WORSE
ZOO.

I LIKE TO
THINK OF YOU
AS PART OF THE
RECREATION.

THANKS,
MAN. I KNOW
YOU'VE GOT
A ZOO.

HEY, MAN.
THEY'RE TRYIN'
TO KEEP ME FROM
GETTING BOOKS AND
MAGAZINES.

RACIAL?
WERE THEY
OBSCENE?

HELPING
YOU MAKE
A BOMB OR
SOMETHING
STUPID?

IF
NOT, ASK
AGAIN.

HOW COME I
CAN'T WRITE A KITE
TO OL' AL? THEY WENT
AND SENT HIM OVER TO
ANOTHER UNIT.

YOU HAVE TO
FOLLOW THE RULES--
THEY'RE POSTED ON THE
MAILROOM WALL. GO
READ 'EM.

CAN I
WRITE A
GRIEVANCE
ABOUT THE
I.C.E.?

ARE YOU
SUPPOSED TO
BE ON THE I.C.E.
LIST? YOU NEED
AN IMMIGRATION
LAWYER.



YO, DIBS,
YOU AINT GONNA
BELIEVE THIS
ONE!

THE
RELIGION OF
MY WHOLE
'HOOD!

THEY DON'T LET
ME PRACTICE MY
RELIGION!

ODD,
ISN'T
IT?

DID
YOU SHOW
THEM YOU'RE
SINCERE?

HOW DO
YOU PRACTICE
THAT RELIGION,
ANYWAY?

KNIVES
INVOLVED,
BY ANY
CHANCE?

THEY'RE COUNTING MY TIME WRONG!

FIRST, WRITE TO DISPUTE RESOLUTION TIME SECTION OFFICE FOR A CL-147.

IF YOU DON'T GET AN ANSWER, THEN FILL OUT A JAIL TIME QUESTIONNAIRE FOR THE STATE COUNSEL FOR OFFENDERS.

IT'S COMPLICATED

YOUR U.G.I.S DON'T HAVE ANYTHING TO DO WITH IT.

THEY'RE SCREWING WITH MY PAROLE. WE CAN'T GET OUTTA HERE EVEN WHEN WE'VE DONE THE TIME!

U.G.I.S DON'T HANDLE PAROLE. THE PAROLE BOARD DOES.

REMEMBER: IT'S A PRIVILEGE, NOT A RIGHT!

CONTACT THE DISPUTE RESOLUTION OFFICE FIRST FOR IMMEDIATE RELEASE.

THE CLASSIFICATION AND RECORDS OFFICE WILL INVESTIGATE AND GET BACK TO YOU.

IF THAT DOESN'T WORK, WRITE THE SCFO.

YOU NEED A DISPUTE RESOLUTION FORM CL-147.

WELL, THE U.G.I. SURE CAN'T, EITHER.

NO ONE WANTS TO HELP ME WITH MY TIME CREDITS!

THEN WRITE TO THE STATE COUNSEL FOR OFFENDERS, THE SCFO.

I SUPPOSE YOU CAN'T FIX A DEATH PENALTY FOR SOME OLD PALS, CAN YOU?

MAN, LET'S JUST SAY THAT'S BIGGER THAN A GRIEVANCE.

IT'S SERIOUS. IT'S COMPLICATED.

HAVE AN OUT-SIDE LAWYER HELP—DON'T TRY IT FROM HERE UNLESS YOU'VE TRIED AND CAN'T GET A LAWYER TO HELP.

I'M INNOCENT!

I WANT ANOTHER TRIAL!

I WAS FRAMED!

FILING A WRIT OF HABEAS CORPUS IS REALLY, REALLY TECHNICAL.

YOU NEED LAWYERS. IF YOU TRY IT YOURSELF, YOU MIGHT NOT FILE IT IN THE RIGHT TIME, OR IN THE RIGHT PLACE.

USING MESSY LEGAL LANGUAGE WILL CONFUSE THE COURT.

READ THE SCFO MANUAL IN THE LAW LIBRARY.

APPELLATE COURTHOUSE







PRISON GRIEVANCES: WHEN TO WRITE, HOW TO WRITE WORKBOOK SECTION

DIFFERENCES FOR FEDERAL PRISONS

Each state prison system may use different words and titles to mean about the same thing. Code of Federal Regulations: 28 CFR 542(B).

YOU MUST RESEARCH!

To "exhaust administrative remedies" (follow the steps of your system) in a federal prison, inmates will use these words and forms:

FORMS

Start with an informal discussion. You can also use a **BP 8** or a **Cop Out**, which is a written request to a staff member.

BP 9 is a form a counselor will provide you to fill out. You have 20 days from the incident or learning of the problem to file it. The prison system has 20 to read and respond, with another 20 days possible extension.

BP 10 is an appeal from the decision; if you believe the system made a mistake in its answer to your **BP 9**, then you can appeal to the Regional Director within 20 days of getting your answer. Attach a copy of your **BP 9** decision. The Regional Director has 30 days to respond to you, and can take a 30 day extension.

In a federal penitentiary, inmates have yet another step. If you are not satisfied with the Regional Director's **BP 10** decision, file again within 30 days. Complete a **BP 11** and attach both the **BP 9** and **BP 10** forms. The Central Office of the Bureau of Prisons will investigate in 40 days, with a 20 day extension possible.

HOW TO ORGANIZE

The federal forms ask inmates to divide their problem in this way:

- Statement of facts
(who, what, where, when)
- Grounds for relief
(are they breaking a system rule or constitutional amendment?)
- Relief requested
(what do you want them to do about it – that they can possibly do)

The **Prison Reform Litigation Act** (PLRA) applies to city and county jails; if they do not provide you with these rules and steps, ask for them. You must exhaust that particular jail's "administrative remedies."

THINK BEFORE YOU WRITE

Before you fill out a **Step 1 (I-127, BP-9, etc.)**, make sure the Unit Grievance Investigator (U.G.I.) is the **right person** to read it. *Does he have the authority?*

Ask yourself:

- Are you complaining about something an employee or other inmate did? (like, did someone ignore a serious medical problem)
- Did you get hassled for turning in a grievance? or for trying to write to a court?
- Was your property lost? Did the prison system have physical control of your property when it was damaged? or was lost?
- Or: Is this some other problem the prison can control?
- Have you added each specific fact to your specific complaint so the prison system can act on your grievance?

You should **not** fill out a **Step 1** until you can answer 'yes' to a question above.

THE U.G.I. CAN'T HELP WITH THESE...

- ✗ State or Federal Court decisions, laws, or regulations
- ✗ Parole decisions
- ✗ Disagreement about time-served credit (send to Classification and Records, Time Section)
- ✗ Appeals that belong somewhere else (ICE for immigration, for instance, or a jail problem that needs to go back to the jail authority)
- ✗ Any matter the prison system doesn't control, like your divorce or child support payments, or inheritance

The Warden, or a representative that can sign for him, should sign and return your **Step 1**. You have a specific number of days from the Warden's signed return to correct. Then resubmit if it's a technical problem that you can fix. If it was denied 'on the merits,' then you might choose to file a **Step 2** and explain **WHY Step 1** was decided wrong. Keep a copy of your **Step 1**. Keep record of the dates if you do not have a copy. Follow the time limits even if you change units. The PLRA law requires you to go through **Step 2** if you ever want to file in court.

Keep a calendar! (See calendar at back.)

WHY YOU GET TURNED DOWN...

X Your time period has expired:

Step 1 -- In some states, 15 days from the incident or when you should have been aware of the problem; in federal prisons, 20 days. Research your jail/state prison rules.

Step 2 -- In some states, 15 days from signature on **Step 1**; in federal prisons, 20 days. Research your jail/state prison rules.

*The time limit **doesn't expire** if you change units.*

X You have complained about the same problem within 7 days. Or if you submit more than 1 grievance on a new issue in 7 days.

(They may not have had time to read the first one.)

Exceptions: Inmate disciplinary and emergency grievances.

X You didn't turn in originals. Carbon copies of **Step 1** and **Step 2**, even with original signatures, are not originals. If you didn't get your original **Step 1** returned, send a letter or required system form to the Unit Grievance Investigator. Research your jail/state prison rules.

The same goes for a **returned, unsigned Step 1**.
Give them **specific** information: date you filed, the number, date, etc.
Keep the dates on your calendar.

X You added the wrong or too many attachments. Just use the spaces in the form. They may later ask you for official documents like sick-call requests, property papers, and written things that support your claim.

Attachments can get lost.
Hang on to them until someone asks for them!

X You didn't show that you had tried to talk it over first. You have to talk with someone from the prison staff first before you file. Describe that attempt on the **I-127 form**.

Exceptions: If you are protesting the outcome of a disciplinary hearing, **go straight to Step 1**.

WHY YOU GET TURNED DOWN...

CONTINUED

- ✗ You filed a **Step 2** exactly like **Step 1** without explaining why you think the first decision was wrong.
- ✗ You complained about something the prison **can't** fix. (see above) Or you did not state what you wanted done. There has to be something that the reader can do – not just listen and nod or agree.
- ✗ You used vulgar or indecent language. Or you physically threatened someone. This can also get you a disciplinary case.
- ✗ There is nothing anyone can do, period. No one can make it stop raining during rec time.
- ✗ You have already complained about the same issue before.
- ✗ If you ask for money as payment for the problem, or if you ask the prison system to discipline its own staff, the authorities probably won't help you. A court might, later, if you have filed a **Step 1** and **2**.
- ✗ Your writing is too hard to read. Write it so someone can *read and understand it*. Or use a typewriter. Or ask someone with clearer handwriting to help you.

Do you think the Grievance Procedure doesn't work? Then write a letter to the Administrator of the Offender Grievance Program but continue to take the proper grievance system steps.

ADDITIONAL RESOURCES -- *Help within your system:* Most states and federal institutions have inmate and family handbooks; families can access a full list through the website <http://www.aele.org/law/jb-resources.html#Inmate & Family Handbooks and Publications>. Your unit law library should have a copy.

WHY THIS ONE WORKED...

TYPED FORM
SO IT WAS
LEGIBLE

FILLED IN ALL
BLANKS EXCEPT
OFFICE USE ONLY
SECTION. DESCRIBES
ATTEMPT TO RESOLVE
THE PROBLEM FIRST

Department of Criminal Justice

STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: Edwin Porter DCJ # 469338

Unit: Stevenson Housing Assignment: J-7

Unit where incident occurred: Stevenson

OFFICE USE ONLY

Grievance #: _____
Date Received: _____
Date Due: _____
Grievance #: _____
Investigator ID #: _____
Extent Date: _____
Date Sent to Offender: _____

You must try to resolve your problem with a staff member before you submit a formal complaint.
The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? C.O. Morales When? 6/19/09

What was their response? Walked away, didn't believe me

What action was taken? None

State your grievance in the space provided. Please state who, what, when, where and disciplinary case number if appropriate.

Inmate Joe Smith entered my cell and stole my plastic fan on Saturday June 19. I yelled to C.O. Morales, but he went and left the wing. Later I told him again, and he said Smith said it was his fan. Everyone knows it's mine, but they laughed and said Smith had one too.

ANSWERED
WITH SPECIFICS:
WHO WHAT
WHEN WHERE

FILED WITHIN
THE 15-DAY
TIME LIMIT

Action you request to resolve your complaint.

I want the U.G.I. to read the purchase report from the commissary that proves the fan is mine. I want him to return it, just like it was and not torn apart.

Signature: Edwin Porter

Date: 6/23/09

SIGNED
THE FORM

ASKED FOR
ACTION THAT IS
POSSIBLE

WHY THIS ONE DIDN'T...

Department of Criminal J.

STEP 1 OFFENDER GRIEVANCE FORM

Offender Name: MIKE GROSSMAN DCJ # 358227

Unit: STEVENS

Housing Assignment: K-AL

Unit where incident occurred: CAFETERIA

C.O.'S ARE NOT SUPPOSED TO MAKE FOOD DECISIONS. NEITHER WILL A U.G.I.

NO SPECIFIC DATE.

OFFICE USE ONLY

Grievance #:

Date Received:

Date Due:

Grievance Code:

Investigator ID #:

Extension Date:

Date Ret'd to Offender:

YOU CANNOT COMPLAIN AGAIN UNTIL 7 DAYS HAVE PASSED.

WHAT RELIGION?
BE SPECIFIC
ABOUT ANY
RELIGIOUS RULES.

You must try to resolve your problem with a staff member
The only exception is when appealing the res

d you talk to (name, title)? ALL THE C.O.'S

their response? WALKED AWAY, TOLD ME THEY COULDN'T

DO ANYTHING before you submit a formal complaint
of a disciplinary hearing.

LAST WEEK AND I've
When? FILLED OUT THIS
SAME FORM 2 TIMES
THIS WEEK ALREADY.

What action was taken? NONE

State your grievance in the space provided. Please state who,
what, when, where and disciplinary case number if appropriate.

I CAN'T EAT THE CAFETERIA FOOD. IT'S AGAINST MY
RELIGION. I TOLD THE COOKS. I TOLD MY WHOLE UNIT. I
SENT A LETTER TO THE CHAPLIN. THE FOOD TASTES LIKE
SHIT. I KEEP WRITING AND YOU DON'T DO NOTHING.

INDECENT
LANGUAGE.

DIDN'T TALK TO
RESPONSIBLE
PERSON TO
RESOLVE
INFORMALLY.

AS 'EVIDENCE'

Action you request to resolve your complaint.

CHICKEN-
SCRATCH
HANDWRITING
DIFFICULT
TO READ.

Signature: _____

Date: _____

INAPPROPRIATE
ATTACHMENT. ONLY
OFFICIAL PAPERS.
GROSS!

DIDN'T
SIGN OR
DATE.

Here are 9 reasons this grievance might have been returned. The **UGI** can give it back any time you make **even 1** of these mistakes.

The **UGI/staff** has a limited number of days to read, sign, and return a **Step 1**. You don't have to wait to file again IF it involves offender disciplinary or emergencies. You have a limited number of days from the date of the signature to file a **Step 2** even if you change units.

MEDICAL GRIEVANCES



If you believe you did not get adequate medical help:

YES NO

Did you **properly** fill in the **sick call request**, and describe the medical problem carefully?

Did you write down the **date** and **name** of the person who treated you?

Did you afterwards complain to the person who treated you?

Did you write down that date and name of the person who still did not help you?



If you answered "**no**" to any of these questions, then have done as much of this as possible. Otherwise, you will have a weak grievance. Try to get your information before filing. Request your medical records.

Outside people may be able to get this information with your permission. If the Health Administrator turned down your properly written **request**, then you may decide to file a **Step 1** grievance.

YES NO

Do you have **documents** to prove who you **first** complained to, when, and the answer?

Do you have the returned **request** with its reason checked with a response?

Did you explain what happened to you because medical help was delayed or denied?

If you answered "**no**" to any of these questions, you will have a **weak Step 1**.

MEDICAL GRIEVANCES

CONTINUED



THINK!

Try to get the information you need. If you answered "yes" to all of these questions, then you might fill out a **Step 1**.

Remember the rules:

- In some states, you have **only 15 days** (federal, **20**) after you learned about the problem to file **Step 1**.
- This has to be something the reader **can do something** about – not just a list of complaints.
- **Ask for what you need:** To see a doctor, or to see a *different* doctor, or to have a procedure or doctor the doctor said you need.
- **Be specific.** Explain everything each person *did* and *did not* do.
- **Write carefully** so they can read what you are saying.
- **Keep your original I-60.**
- Unless this is a life-or-death medical emergency, you **cannot** turn in another **Step 1** for **7 days**.
- Each problem must have a **separate Step 1. Each complaint is separate.**
- You have to **show an I.D.** and wait **24 hours** for any prescription-- *don't complain about the rule.*
- **Do not use legal or medical jargon.** *Speak straight.*
- They will take money out of your account as your co-pay, if you have the money-- *don't bother to complain about it.*

LOST PROPERTY

When you fill out a **Step 1** for lost property, be as **specific** as you can:

- **Describe the property carefully.**
(A "typewriter" is *what?* Black, Remington, missing the 'k' key)
- **Explain where you last saw the item.**
(*unit, what room, where in room*)
- Give officer's name you first reported it to, as well as the date/time of your report.
- Summarize the officer's answer.
- If you've been in several units, narrow down which one(s) you remember seeing it last. (*Unit name and date*)
- Request restitution.
(*They could find it or replace it*)

THE INAPPROPRIATE DISCIPLINARY SANCTIONS WORKSHEET

Is your grievance about:

YES NO



- Reduction in class status or level of custody and freedom?
- Amount of supervision?
When and how are you watched?
- Assigned same line class for set time?
How often are you evaluated to change status?
- Custodial classification, or whether you are qualified for a new level of security?
- Placed in solitary confinement?
- Commissary and/or recreational privileges?
- Cell restrictions (30-45 days)?
- Transfer as retaliation, or to get back at you for something you did?
- Job or prison unit assignments?

If you answer "yes" to any of the above, you must



These are "protected interests" **only** if you can show that the prison has an unconstitutional reason for its action.

THE INAPPROPRIATE DISCIPLINARY SANCTIONS WORKSHEET



REGULATIONS

You may think the prison has a rule that is unfair. First, talk with your unit officer. The officer may agree that the problem creates an "atypical and significant hardship" on you and other inmates.

Is the regulation:

YES NO

 Abnormal ("unusual" even within a prison system)?

 Making life **really** difficult for inmates (even more so than prison life is intended to be)?

Are the 'conditions' of the punishment (thing you are complaining about):

YES NO

 Like those in **other** prisons?

If "yes," then  and research your state's prisons again. If "no," then a court might look at your problem — after you have properly gone through **Step 1** and **Step 2** so the system has a chance to fix the problem first.

You will need factual, solid evidence.

Be able to explain in detail that:

- The problem is an "atypical and significant" hardship and...
- A legal case, regulation, or statute actually says prisoners should not be restrained or confined in that manner. (**So research!**)

DUE PROCESS FOR DISCIPLINARY ACTION

Ask yourself:

YES NO

- Did officials give you advanced, written information about their charges?
- Did officials show you the evidence they have against you?
- Did the "factfinder" (a prison official not involved in the incident) inform you of the evidence against you?
- Did the factfinder give you the reason why you are being disciplined?
- Did you get to attend the hearing and give your evidence and your witness(es)?
- Were you allowed to ask the prison's witness(es) questions?

If you answered 'no,' then you may want to fill out a **Step 1** and perhaps later a **Step 2**. Keep all your evidence.

Some prison due-process rules to remember:

- 1) If the prisoner is unable to be at the hearing, officials can have the hearing anyway.
- 2) No one will allow your evidence if it might cause safety problems.
- 3) They will not allow you to show something that isn't about the case at all.
- 4) They may decide there's a 'good cause' for not allowing some inmate questions. For instance, you will not be allowed to ask a witness the names of all the inmates who took part in an incident. Officials may find 'good cause' to not allow your question if you are just trying to make trouble for another inmate or official.

DUE PROCESS FOR DISCIPLINARY ACTION

NEXT STEPS

You may still believe a federal court should review a disciplinary sanction in your prison. You may still believe the federal court will agree you did not have due process.

If that is the case, then



You need to try to find an attorney to help you file in federal court. You can file pro se (by yourself) if you don't have a lawyer. But! It is much harder. The statute of limitations (deadline) is really important.

You have two possible deadlines--

- One deadline is for a due process claim: **2 years.**
- The other deadline is for a habeas corpus claim: **1 year.**

You can see right here that an attorney is **essential**. An attorney will help you file correctly and on time.

The attorney will make sure that you...

- Explain which protected liberty/property was taken;
- Explain how you did not receive the proper due process;
- Use the correct forms;
- Give them specific detail;
- Give them your evidence (only later, if the court agrees to hear your case).

PLEASE REMEMBER--
IT'S BEST TO HAVE AN ATTORNEY!

THE LIFE ENDANGERMENT WORKSHEET

ASSAULTS OR CONDITIONS

If you believe your life is in danger, contact the Security Supervisor directly. If the U.G.I. decides you have a life-threatening emergency, he should work with the Office of the Inspector General.

Emergencies do not have to go through the following screening.

If a prison condition creates a dangerous situation, officials need to know about it. Give them a chance to correct it.

YES NO

- Did you report the assault or threat/problem to a Correctional Officer, or Classification staff, or Warden, or any staff member you are comfortable with?

- Did you keep track of the official's name and time/date you reported the problem?

- Afterwards, did you still have the threat/problem?

- Is there a dangerous prison condition that is different from the condition in other prisons?

- Does the prison condition break a law of sanitation or safety?

If you answered "yes" to one of the questions above, then you should fill in a **Step 1** – unless this is an **emergency** that could harm you **right now**.

You can file a *second emergency* form any time if the problem is about offender disciplinary problems.



PRISON GRIEVANCES

THE LIFE ENDANGERMENT WORKSHEET

CONTINUED

YES NO

- Do you offer specific facts – names and dates, and witnesses if possible?
- Is there something specific that the official can do to fix the problem in the future?
- Is there something specific that the official could reasonably do about a harm that has already occurred?
- Is there a direct connection between what officials did or didn't do and any harm?
- Did you report the incident within 15 days? Or, if this is a problem you have just learned about, is it still within 15 days of your learning of it?

Maybe you answered “yes” to at least three of the questions above and the U.G.I. still denies your request. Then you may have to file a **Step 2**. You will need to have evidence that the administration could have corrected the problem.



SEXUAL ASSAULT

- Report the attack immediately to any staff member, supervisor, Unit Warden, or the OIG.
- Ask for immediate medical attention. They will take you to a safe place.
- Do not shower, brush your teeth, change clothes, or even go to the bathroom until you receive a sexual assault nursing exam.
- Medical personnel will help you and take evidence. The OIG will investigate immediately.

THE EXCESSIVE USE OF FORCE WORKSHEET



Most use-of-force complaints are full of "he said," and "I said." Or they say "he did," and "I did." So everything depends on specific facts. You need **details**. You need **witnesses**. You need **documentation**, if possible, including medical records.

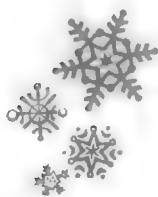
YES NO

- Was the force deliberate, rather than an accident? Was it excessive, rather than normal for the situation?
- Did an official fail to act on reliable information that unconstitutional acts were occurring?
- Was the force used 'to cause harm' rather than 'to maintain discipline'?
- Was the harm an irreparable injury?
- Is there a direct connection between the injury and an official's actions or failure to act?
- Was the force used to retaliate or punish you rather than to restore discipline? (*These are difficult to separate and need to be clear*)
- Did the official say anything to you (or another witness) that could be judged as 'malicious' or 'sadistic'?
- Did you report what happened within 15 days?
- Is there something the Warden or other officials can do about it?

Remember: A court will not accept your case unless a prison official knew that unconstitutional acts were...

- 1) occurring, and
- 2) that serious harm could result
- 3) but he ignored it or did not act reasonably to prevent it.

Write to the district court where your prison is.



THE EXCESSIVE HEAT OR COLD WORKSHEET



First, talk with a prison official. Make sure officials know that the temperature could hurt the health of inmates.

If you believe you and other prisoners are suffering from extreme heat or cold:

YES NO

- Have you talked to officials about the problem?
- Do you have a medical problem that requires a different temperature? Can you prove it?
- Is the temperature significantly different from other prisons in your area?
- Are you working outside when it's below 32° or over 100°?
- Do you get water breaks every 30 minutes on hot days?
- Is the problem always happening or just temporary?
- Is there anything the officials can do to correct the temperature?

If not,



Officials do **not** violate the Eighth Amendment unless...

- 1) they act with "deliberate indifference" to
- 2) a problem they are aware of that is
- 3) a "substantial risk of serious harm" to a prisoner's health.

THE ENVIRONMENTAL HAZARDS AND TOXIC MATERIALS WORKSHEET



You may believe the areas you live and work in are dangerous. Again: **First bring the problem to the attention of a prison official.** Write down the date and name of that person. Make notes of what they say and what they do. Be able to explain the problem if it is still there. If the official cannot or does not fix the problem, then you may fill in a **Step 1**.

But,

THINK!

Courts have found that prison officials are not responsible for hazard/toxic health problems unless the officials...

- are deliberately indifferent.
- expose a prisoner to something that is unreasonably risky.
- know there could be a big risk of serious damage to your health.
- make you work differently from, or with less protection than, people in the local area who are doing similar work.

Here are some conditions that at least one court found dangerous after reviewing the documented facts.
Circle what you believe applies to your situation:
(but you must research what your own court has said)

EXPOSURE TO TOXIC FUMES

POLLUTED WATER

CLEANING SEWAGE WITHOUT PROTECTIVE CLOTHING AND MASKS

UNSANITARY FOOD SERVICE

BAD, OR CONSTANT, LIGHTING (BEYOND THE NORMAL)

DEFECTIVE PLUMBING

EXPOSURE TO INSECTS, VERMIN, OR RODENTS

LACK OF FIRE SAFETY

LOUD OR CONSTANT NOISE BEYOND WHAT IS NORMAL FOR PRISONS

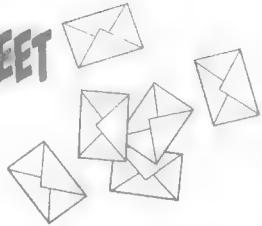
BEING EXPOSED TO EXCESSIVE SECOND-HAND SMOKE IN AN ENCLOSED AREA

HAVING DIRECT/SKIN CONTACT WITH A KNOWN CARCINOGEN (SOMETHING THAT CAUSES CANCER)

RESEARCH, RESEARCH, RESEARCH!
Federal, state, and local governments have rules about dangerous conditions and toxic substances. These agencies may be able to help you research them.

THE MAIL AND PUBLICATIONS WORKSHEET

If you believe the prison system curtailed your "speech":



YES NO

- Did you try to send a message to someone but **not** through the mailroom?
- Did you forget to include your name, inmate number, and unit address?
- Did you try to send a letter or package to another inmate?
- Did you decorate the outside of the envelope?
- Did you seal the letter or package?
- Was anything in it illegal or prohibited?
- Could anyone think the contents are a threat to security?
- Did a family member or friend try to send you stuff?
- Did a magazine or book come from someone who was not the publisher or store?
- Is language in the book or magazine something that has been censored before?
- Does the book or magazine make racial comments or show one race in a bad way?
- Does the book or magazine encourage readers toward criminal behavior?
- If you are writing about your crime, will you get paid?

If you can answer 'no' these questions, then you can complain to **your system's review committee**. Research what courts have said about your type of publication.

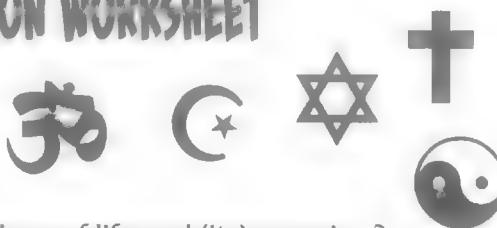
Generally, the prison system makes publication rules to keep the prison safe. They should not make a rule just because the book or magazine says something about religion. They should not have a rule because the content has a political, or social, or sexual, or unpopular idea. To restrict the book or magazine, officials need to decide that the content involves some threat to security. They might decide it is a threat to the "order of prison life." If there is a question, wardens and courts usually lean toward keeping the material out.

01/02/2011

THE RELIGION WORKSHEET

Does your religious belief...

YES NO



- look at the basic questions of life and (its) meaning?
- have outward signs that people can see?
- have leaders? (*They don't need to be in prison with you.*)
- have members who believe?
- have something written so you can read and understand?
- believe in a God or Gods?
- believe in life's purpose?

If you answer 'no,' then



Research legal cases on these issues. Decide why your belief is so different from what other faiths have in common. If you answer 'yes' to most of these questions, then officials will probably believe you have a religion.

But then, are you just talking? Or does religion play a part of your life?

Will the staff or other witnesses agree that...

YES NO

- your beliefs are sincere?
- you have believed for a while or show evidence of this new belief?
- someone kept you from exercising your right to religion?
- you have **talked with the Chaplaincy Department** and tried to work this out with the officials before writing a grievance?

ADDITIONAL RESOURCES -- U.S. Department of Justice Department (Sept. 22, 2010). Report on the Tenth Anniversary on the Religious Land Use and the Institutionalized Persons Act.

THE RELIGION WORKSHEET

CONTINUED

If you think the officials have a rule that keeps you from practicing your religious beliefs...

YES NO

- does your religious belief contradict a prison rule?
- does your religious practice interfere with prison security?
- is the rule neutral and does it apply to all religions or all prisoners, generally speaking?

If you answer **“no”** to any of these questions, then that prison religion rule might violate the **First Amendment** or the **Religious Land Use and Institutionalized Person Act (RLUIPA)**.

Research!

First talk with staff, and then with the Chaplaincy. If they cannot help you, you may file a **Step 1**. But be sure to explain how the rule could be changed that would help you and cause the least security trouble or staff time.

THINK BEFORE YOU ACT!!



CONSTITUTIONAL AMENDMENTS AND HOW THEY AFFECT YOU



Inmates have **few** rights.



The courts decide the *meaning* of the rights you might have.



Three **Constitutional amendments** and a **congressional act** may relate to your rights within the prison system:

1st Amendment claim:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Most important to you:

Inmates have the right to petition (file a complaint) to the Government—but only if you have a problem that the Government can fix. You must know the rules and laws about those petitions.

The First Amendment guarantees **reasonable** freedoms of religion and speech, but judges have narrowed these rights within the prison. Courts balance the right against the safety and security of the prison. As long as the prison rule is rationally related to the safety and security of the prison, they will usually win.

CONSTITUTIONAL AMENDMENTS

CONTINUED

8th Amendment claim:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

You must prove that the officials or the prison rules are “**cruel and unusual**,” but it is difficult. You have to prove that they are *deliberately indifferent* to a serious problem. You have to show they actually *knew* about the problem. You also have to prove that they *ignored the problem*.

14th Amendment claim (Due Process):

...No State shall . . . derive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

So? The State can't take your life, or your liberty, or your property until the State has gone through the legal proceedings *designed to protect against error*. These proceedings have rules to protect and enforce private rights, including proper notice.

They also require a fair hearing before a **neutral decision maker** with the power to decide the case. All citizens, including inmates, are equally protected by law. For instance, you have the right to ask for help with **an informal complaint** and submit grievances.

If you are not satisfied with the answer, and you have followed the grievance rules, you have the right to file a lawsuit.

PRISON LITIGATION REFORM ACT

In 1996, congress passed the **Prison Litigation Reform Act** because so many inmates filed lawsuits. The rules in the PLRA are a serious response to a serious problem. They want you to follow these rules to get a court to read your complaint.

Among the rules you need to know:

- 1) You must “exhaust administrative remedies.” That means following the federal rule, or the state requirement of your jail/prison...
 - first talk with prison unit guards or officials
 - then write a specific **Step 1** and get a reply
 - then write a specific **Step 2** explaining why the first decision was wrong, get a reply, and
 - finally, follow all the time limits when you finally file with the correct court.
- 2) Generally, you *cannot* file a suit for money damages for a mental or emotional injury unless you also have a provable physical injury too. You can file to ask that they change the prison policy. **Research!**
- 3) You will pay court filing fees taken monthly from your accounts.
- 4) **Three strikes:** Let's say you have already filed three suits that the court said were *without* merit (frivolous, malicious, no basis in law). The **PLRA** says you will not be able to file again without paying the full court cost up front. The only exception is “imminent danger of serious physical injury.” **Research!**
- 5) **Good time:** The **PLRA** can allow the prison to take away good time...
 - if you file a claim that is merely malicious, or
 - if your stated problem isn't against the law, or
 - if you file it solely to harass, or
 - if you give false information.

ADDITIONAL RESOURCES -- *All-around help:* Prisoner's Self-Help Litigation Manual by John Boston and Daniel E. Manville (2010) offers both rich advice and a discussion of legal cases you need to take your complaint into the courts. • **Prison Litigation Reform Act.** Research your jurisdiction for new cases. Some legal articles summarize cases, but beware their publication date, e.g., “The Civil Rights of Prisoners: The Seventh Circuit and the Exhaustion of Remedies Under the Prison Litigation Reform Act,” Devin McComb, 1 Seventh Circuit Rev., 46 (2006). • **Disabilities:** Helping Inmates Obtain Federal Disability Benefits, National Institute of Justice (NIJ), U.S. Department of Justice. • **Federal Prison statutes and legal issue:** useful, but you must research to update Legal Resource Guide to the Federal Bureau of Prisons 2008. • **Women's Issues:** National Women's Law Center and the Rebecca Project for Human Rights (Oct. 28, 2010), Mothers Behind Bars: state by state ...; an online directory is National Directory of Programs for Women Offenders <http://nicic.gov/wodp/>

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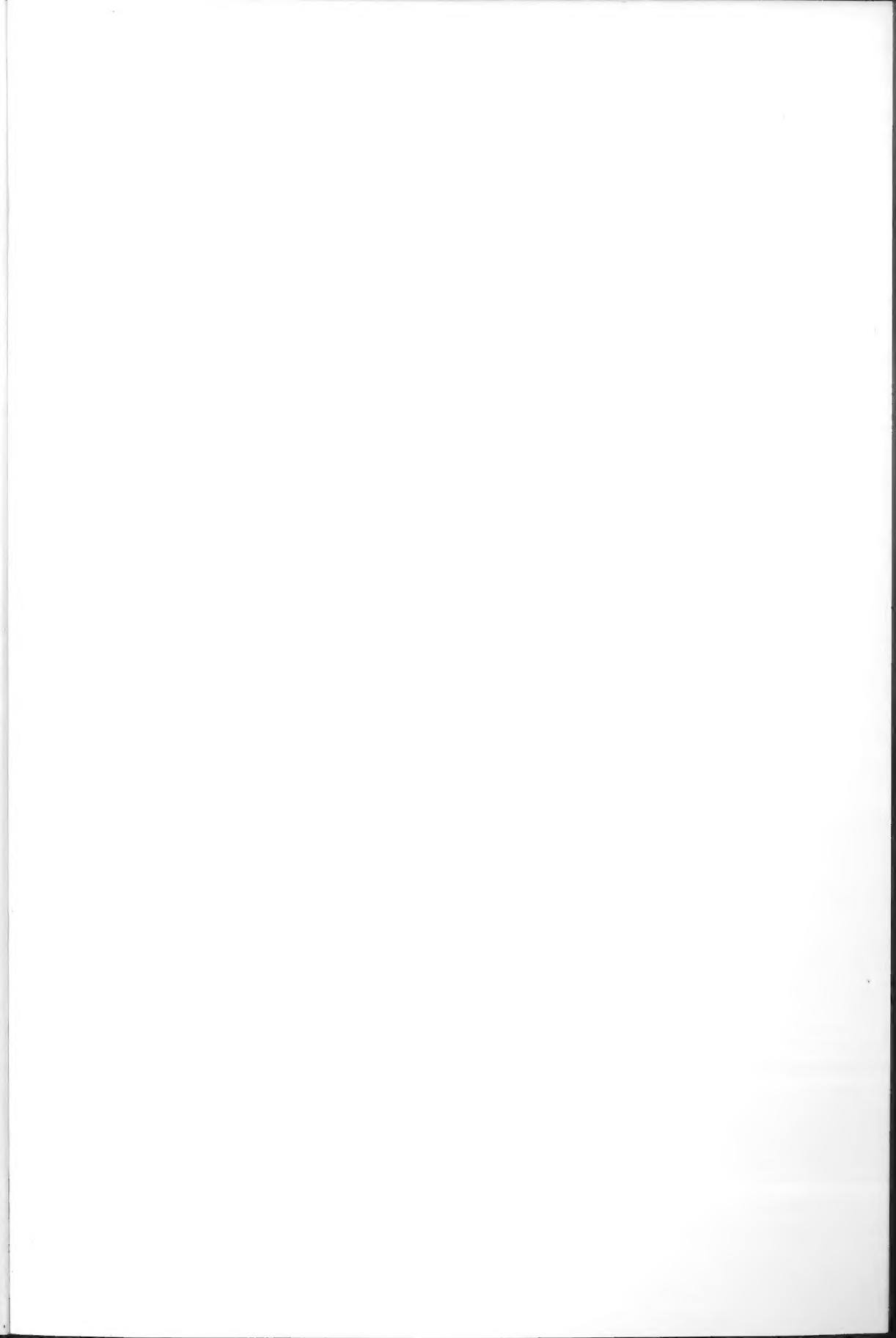
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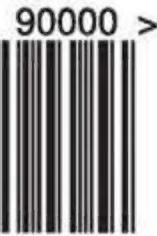




I HATE
HOW LOUD
THIS PLACE
IS...

MAYBE
TOMORROW,
THERE'S A *CHANCE*
LUNCH COULD BE
EDIBLE. A
CHANCE...

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